IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

WP(C).No. 11997 of 2007(C)

PETITIONER:

T.P.RAGHAVAN , AGED 58,
S/O.KANARAN, PANNIVETTUM CHALIL HOUSE,
UNNIKKULAM AMSOM, VALLIYOTH DESOM,
EKAROOL P.O., UNNIKKULAM.

BY ADV. SRI.C.P.MOHAMMED NIAS
SRI.E.NARAYANAN

RESPONDENTS:
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1. HE KOYILANDY CO-OP.AGRICULTURAL AND
RURAL DEVELOPMENT BANK LTD, NO.D.2O20,
BALUSSERY P.O., KOZHIKODE DISTRICT , REPRESENTED
BY ITS SECRETARY.

2. THE JOINT REGISTRAR OF THE
DISTRICT CO-OPERATIVE SOCIETY, KOZHIKODE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 11997 of 2007 C

Dated, this the 9th day of April, 2007

J U D G M E N T

Having regard to the contentions raised, I feel this WP(C) can be disposed of without issuing notice to the respondents and without hearing them because this order is not going to affect the respondents adversely.

2. Petitioner admittedly availed two loans, one for Rs. 1,00,000/- and another for Rs. 4,68,000/- in the year 2000 and 2001 respectively from the 1st respondent Bank. While petitioner claims that payments already made have not been credited, respondents have a case that even after credit, the amount claimed is due from the petitioner. I do not think this Court at this stage should enter findings as to the amount paid, the correctness of calculation of interest and the balance loan amount due after adjusting payments on dates of payments, which the Bank will explain to the petitioner by giving statement of accounts. The Bank should also permit petitioner to sell part of the property mortgaged and settle liability as the land price has gone up and sale of part of the mortgaged property will be sufficient to pay the debts due to

the Bank. In the circumstance, this WP(C) is disposed of with the following directions. (1) The Secretary of 1st respondent Bank will verify the accounts and credit the payments made by the petitioner, details of which will be furnished by the petitioner, calculate balance liability and give detailed statement to the petitioner within one week from date of production of a copy of this judgment by the petitioner before the 1st respondent. (2) Petitioner is granted two months' time from today to arrange sale of any part of the mortgaged property and to settle liability. Petitioner is free to negotiate for sale of property and make arrangements for execution of sale deed. However sale deed will be executed only after entire liability is cleared to the 1st respondent Bank either by the petitioner or by the purchaser in terms of sale agreement with the petitioner. As and when payments are made, 1st respondent will release title deed for the petitioner to execute sale deed. Respondents are directed to forbear from sale of petitioner's property till 15/06/2007. However, if petitioner does not settle liability at least by 15/06/2007, then respondents are free to proceed for sale of mortgaged property and recover the arrears. If petitioner is eligible for benefits under OTS scheme, based on payment made as above,

the Bank will grant incentives also, available under the OTS scheme. The Bank is free to charge interest up to date of payment.

This WP(C) is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg